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June 10, 2013

VIA ELECTRONIC FILING

Jocelyn Boyd, Esquire
Chief Clerk and Administrator
South Carolina Public Service Commission
101 Executive Center Drive
Columbia, SC 29210

RE: Petition of the Office of Regulatory Staff to Request an Order Requiring Tega Cay
Water Service, Inc. to Provide Adequate and Proper Service
Docket No. 2013-168-WS

Dear Ms. Boyd:

Enclosed please find for filing the Return to Petition of Office of Regulatory Staff in the above-referenced docket.

By copy of this letter, I am serving all parties of record. If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me.

Sincerely,

Elliott & Elliott, P.A.

Scott Elliott

SE/mjl

Enclosures

cc: All parties of record w/enc.

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2013-168-WS

IN RE: Petition of the Office of Regulatory)	RETURN TO PETITION
Staff to Request an Order Requiring)	OF OFFICE OF REGULATORY
Tega Cay Water Service Inc. to)	STAFF
Provide Adequate and Proper Service)	

The Respondent, Tega Cay Water Service, Inc. ("Tega Cay Water Service "), by and through its undersigned counsel, herewith make return to the Petition of the Office of Regulatory Staff ("ORS") to Request an Order Requiring Tega Cay Water Service to Take Necessary Measures to Provide Adequate and Proper Service.

1. Each and every allegation not hereinafter admitted, qualified or explained is denied and strict proof demanded thereof.

FOR A FIRST DEFENSE

2. Tega Cay Water Service admits the allegations of paragraph 1 of the petition.

3. Tega Cay Water Service admits the allegations of paragraph 2 of the petition.

4. Tega Cay Water Service admits the allegations of paragraph 3 of the petition.

5. Tega Cay Water Service admits the allegations of paragraph 4 of the petition.

6. Tega Cay Water Service admits the allegations of paragraph 5 of the petition.

7. Tega Cay Water Service admits so much of the allegations of paragraph 6 of the petition as allege that the South Carolina Department of Health and Environmental Control ("DHEC") has issued National Pollutant Discharge Elimination System ("NPDES") permits SC0026743 and SC0026751 to Tega Cay Water Service. In further response to the allegations of Paragraph 6, Tega Cay Water Service would allege that NPDES permit SC0026743 was issued for the operation of Tega Cay Water Service Wastewater Treatment Facility No. 2 and NPDES permit SC0026751 was issued for the operation of Tega Cay Water Service Wastewater Treatment Facilities No. 3 and No. 4, authorizing, among other things, the discharge of treated wastewater into Lake Wylie subject to applicable regulations and conditions of the permit.

8. Tega Cay Water Service admits so much of the allegations of paragraph 7 of the petition as allege that on September 30, 2009 it entered into a consent agreement with DHEC for its wastewater operations. However, Tega Cay Water Service craves reference to Consent Order 09-042-W for the terms and conditions thereof.

9. Tega Cay Water Service admits so much of the allegations of paragraph 8 of the petition as allege that on February 16, 2011 it entered into a consent agreement with DHEC for its wastewater operations. However, Tega Cay Water Service craves reference to Order No. 11-004-W for the terms and conditions thereof.

10. Tega Cay Water Service admits the allegations in paragraph 9, with respect to Consent Order 11-004-W, but denies the allegations with respect to Consent Order 09-

042-W and craves reference to the terms and conditions of the latter, particularly those contained on page 8, ¶ 2 of that order.

11. In response to the allegations of Paragraph 10 of the petition, Tega Cay Water Service craves reference to Consent Order 11-004-W for the terms and conditions thereof. However, in further response to the allegations of paragraph 10, Tega Cay Water Service would allege that before entering into the Consent Order, the utility completed a wastewater collection system audit, subsequently submitted to DHEC for review and approval, that identified the location, duration, extent and causes of sanitary sewer overflows (“SSOs”), analyzed the pumping capacity of each lift station, compared current pumping capacity to the lift station’s original design capacity, initiated flow monitoring efforts at key locations to quantify the hydraulic profile of the collection system, analyzed the dry and wet weather flow patterns at each treatment plant, and from that, determined that the system was not experiencing elevated levels of inflow and infiltration. This audit then was used to develop the plan of operational changes and capital improvements that has resulted in a drastic reduction of SSOs within the utility’s collection system. The elements of the Corrective Action Plan were prioritized so that those portions of the collection system that had a history of frequent SSOs were addressed first in order to reduce SSO activity as rapidly as possible. As an example, Lift Station #2 at the end of Marquesas Avenue and Lift Station #3 at the end of Point Clear Drive were totally revamped in order to enhance the performance of the facilities. A total of four stations are now equipped with more energy efficient submersible pumps that provide more reliable performance and thus reduce the need for frequent repairs. Each control panel at the four

lift stations was also replaced and charcoal filters installed on the vent pipe at Lift Station #3 in order to minimize odors coming from the wet well. The newly installed pumps provide an increase in pumping capacity over the original pumps, which allows the four pump stations to keep up with peak flow conditions generated by the customers in their vicinity. Since the wastewater plant upgrades were completed in January of 2011 and until January 2013, the effluent discharged from the plants has consistently met the stringent water quality limits imposed by DHEC. As a result, the nutrient load place on Lake Wylie as a function of plant performance has been significantly reduced, benefitting the utility's customers by improving the quality of the water in the lake. The utility's success with this effort was demonstrated by DHEC's issuance of the renewed NPDES permits for each of the treatment facilities in April 2011 for a 5-year period. Additionally, the utility was successful in reducing operation expenses.

12. Tega Cay Water Service admits the allegations of paragraph 11 of the petition.

13. Tega Cay Water Service admits so much of the allegations of paragraph 12 of the petition as allege that its wastewater system has experienced overflows since its Corrective Action Plan was implemented; however, Tega Cay Water Service denies that any overflow constitutes a failure to comply with Consent Order 11-004-W. In further answer to the allegations of paragraph 12, Tega Cay Water Service would allege that since the approval of the Corrective Action Plan in July of 2011 and prior to January of 2013, Tega Cay Water Service experienced a total of nine (9) sanitary sewer overflows, and during this period, no wastewater entered any surface water bodies, including Lake

Wylie; moreover, Tega Cay Water Service has met all deadlines contained in the DHEC-approved Corrective Action Plan.

14. Tega Cay Water Service admits so much of the allegations of paragraph 13 of the petition as allege that since January of 2013, Tega Cay Water Service has experienced overflows on January 17, 2013; April 29, 2013; and May 6, 2013.

15. Tega Cay Water Service admits the allegations of Paragraph 14 of the petition.

16. Tega Cay Water Service admits upon information and belief so much of the allegations of paragraph 15 of the petition as allege that the sanitary sewer overflows have raised concerns among their customers concerning their use of Lake Wylie and that “No Swimming” advisories were posted when appropriate. Tega Cay Water Service is also informed and believes that some of its customers may have concerns about their property and their drinking water. In further answer to the allegations of paragraph 15, Tega Cay Water Service would admit that it has mobilized its resources from both within South Carolina and without to investigate, identify and remedy the causes of the overflows which have occurred since January of 2013. Tega Cay Water Service’s crews are, *inter alia*, smoke testing the affected sewer lines, sampling flow with sophisticated radar flow measure units, inspecting sewer lines and manholes and examining its outflow pipe from its treatment facilities. In so doing, Tega Cay Water Service has engaged multiple contractors to address ways to further tighten the system against inflow. Last, Tega Cay Water Service has assigned Rick Durham, Regional Vice President, to focus his energies exclusively on South Carolina and oversee Tega Cay Water Service’s efforts

to identify the source of its sanitary sewer overflows. Therefore, to the extent that its customers have observed personnel, heavy equipment and truck traffic moving through its neighborhood, this reflects the results of Tega Cay Water Service's efforts to resolve the overflow issues and normal operations. However, Tega Cay Water Service denies that this traffic has caused a "noise nuisance". Tega Cay Water Service has also made efforts to keep customers fully informed throughout the process of assessing the causes and solutions associated with the recent SSOs. Multiple updates have been communicated that outline the suspected sources of problems and the work that is being done to make the necessary improvements. Formal update letters have been sent on five occasions in the last month and will continue going forward as more information becomes available. Additionally, the updates have been shared with local print and broadcast media and the Company has been available to address any questions those may elicit. Tega Cay Water Service denies all other allegations in paragraph 15.

17. Tega Cay Water Service denies the allegations of paragraph 16 of the petition. In further response to the allegations of Paragraph 16, Tega Cay Water Service would allege that its Corrective Action Plan with DHEC adequately addressed the issues raised in Orders Nos. 09-042-W and 11-004-W.

18. Tega Cay Water Service denies the allegations of paragraph 17 of the petition and demands strict proof thereof.

19. Tega Cay Water Service denies the allegations of paragraph 18 of the petition and demands strict proof thereof.

20. Tega Cay Water Service admits the allegations of paragraph 19. In further

response to the allegations of Paragraph 19, Tega Cay Water Service would allege that it is working with the ORS to address those concerns.

21. Paragraph 20 of the petition is a citation of legal authority and requires no response.

22. Tega Cay Water Service admits the allegations of paragraph 21 of the petition. In further response to the allegations of paragraph 21, Tega Cay Water Service, as set out in paragraph 16, *infra*, has mobilized its resources to address the 2013 overflows and provided ORS written updates.

23. Tega Cay Water Service lacks sufficient information to form a belief as to the truth of the allegations of paragraph 22 of the petition and therefore denies the same, demanding strict proof thereof. Furthermore, Tega Cay Water Service objects to the ORS's presentation of testimony which has not been prefiled with the Commission, and submits that a request for waiver of the requirement to prefile testimony must be made through a motion with regard to individually identified witnesses.

FOR A FIRST AFFIRMATIVE DEFENSE
(Jurisdiction)

24. All preceding allegations are incorporated by reference to the extent consistent with the foregoing.

25. Tega Cay Water Service respectfully suggests that the Commission lacks subject matter jurisdiction to determine certain questions raised by the Petition regarding: 1) the adequacy of the Consent Orders entered into, and issued by, the Department of Health and Environmental Control, 2) Tega Cay Water Service's compliance with said

Consent Orders, and 3) Tega Cay Water Service's compliance with the laws of the State of South Carolina, to the extent that the Commission lacks statutory authority to enforce and adjudicate those laws. To the extent that the Petition requests that the Commission adjudicate such matters, Tega Cay Water Service hereby moves that it be dismissed for lack of subject matter jurisdiction.

WHEREFORE, Tega Cay Water Service, Inc. prays that the petition herein be dismissed, with costs and such other and further relief as is just and proper.

Respectfully submitted,

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Attorneys for Applicant Tega Cay Water Service, Inc.

Columbia, South Carolina

June 10, 2013

CERTIFICATE OF SERVICE

The undersigned employee of Elliott & Elliott, P.A. does hereby certify that she has served below listed parties with a copy of the pleading(s) indicated below by mailing a copy of same to them in the United States mail, by regular mail, with sufficient postage affixed thereto and return address clearly marked on the date indicated below:

RE: Petition of the Office of Regulatory Staff to Request an
Order Requiring Tega Cay Water Service, Inc. to Provide
Adequate and Proper Service

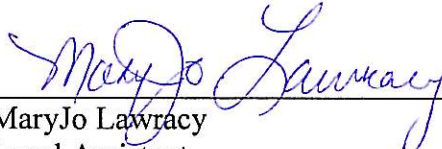
Docket No. 2013-168-WS

PARTIES SERVED:

Jeffrey M. Nelson, Esquire
Shannon B. Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

PLEADING: Return to Petition of Office of Regulatory Staff

June 10, 2013



MaryJo Lawracy
Legal Assistant